

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JESSE WALLACE,

Plaintiff,

v.

DR. LOCKHARD,

Defendant.

Case No. 21-cv-01512-SPM

ORDER DISMISSING CASE

MCGLYNN, District Judge:

Plaintiff Jesse Wallace filed this action pursuant to 42 U.S.C. § 1983 for constitutional deprivations that allegedly occurred when he was in custody at Marion County Law Enforcement Center. On December 2, 2022, the Clerk of Court entered a notice on the docket instructing Defendant Lockhard to file a Notice and Consent to Proceed Before a Magistrate Judge Jurisdiction Form. (Doc. 13). The notice was sent to all parties, including Plaintiff. On December 15, 2022, the notice was returned to the Court and marked as undeliverable to Plaintiff. (Doc. 14).

The Court then issued an order informing Plaintiff that he had previously been advised of his continuing obligation to keep the Court informed of any change in his address and that failure to comply could result in dismissal of this action. (Doc. 15). Plaintiff was ordered to show cause on or before January 10, 2023, why this case should not be dismissed for failure to comply with orders of the Court and for failure to prosecute his claims. Plaintiff did not file anything with the Court by the deadline, and he has not participated in this action since filing his Notice Regarding Magistrate Judge Jurisdiction and Consent/Non-Consent Form on December 9, 2021. (Doc. 6).

In a motion to dismiss filed by Defendant Lockhard, Lockhard informs that Court that his initial filings that were mailed to Plaintiff were returned him marked “RETURN TO SENDER

NOT DELIVERABLE.” (Doc. 21-1).

The Court will not allow this matter to linger indefinitely. Accordingly, this action is **DISMISSED** without prejudice for failure to comply with three court orders to provide notice of any address changes (Docs. 3, 7, and 15) and for failure to prosecute. *See* FED. R. CIV. P. 41(b).

Plaintiff is **ADVISED** that his obligation to pay the filing fee for this action was incurred at the time the action was filed. Therefore, the filing fee of \$350.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

If Plaintiff wishes to appeal this Order, he must file a notice of appeal with this Court within thirty days of the entry of judgment. FED. R. APP. P. 4(a)(1)(A). If Plaintiff does choose to appeal, he will be liable for the \$505.00 appellate filing fee irrespective of the outcome of the appeal. *See* FED. R. APP. P. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien*, 133 F.3d at 467. He must list each of the issues he intends to appeal in the notice of appeal. *See* FED. R. APP. P. 24(a)(1)(C).

In light of this Order, the motion to dismiss filed by Defendant Lockhard is **DENIED as moot**. (Doc. 21).

The Clerk’s Office is **DIRECTED** to close this case and enter judgment accordingly.

IT IS SO ORDERED.

DATED: January 20, 2023

Stephen P. McGlynn
STEPHEN P. MCGLYNN
United States District Judge